



U.S. Citizenship
and Immigration
Services

39

[REDACTED]

FILE:

[REDACTED]

EAC 01 029 50230

Office: VERMONT SERVICE CENTER

Date:

SEP 08 2004

IN RE:

Petitioner:

Beneficiary:

[REDACTED]

PETITION: Petition for Special Immigrant Battered Spouse Pursuant to Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(iii)

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

60 Robert P. Wiemann, Director
Administrative Appeals Office

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. An appeal was dismissed by the Administrative Appeals Office (AAO). On motion, the AAO affirmed its prior decision. The matter is now before the AAO on a second motion. The motion will be dismissed as untimely filed.

The petitioner is a native and citizen of Bulgaria who is seeking classification as a special immigrant pursuant to section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1154(a)(1)(A)(iii), as the battered spouse of a United States citizen.

In order to properly file a motion, the regulation at 8 C.F.R. § 105(a)(1)(i) provides that the motion to reopen and/or reconsider must be filed within 30 days of the decision that the motion seeks to reopen. If the decision is served by mail, three days are added to the prescribed period. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the AAO issued the decision on August 26, 2003. The motion was received by Citizenship and Immigration Services (CIS) on October 15, 2003, more than 33 days after the decision was issued. Accordingly, the motion was untimely filed.

As the motion was untimely filed, the motion must be dismissed.

ORDER: The motion is dismissed.